

### REMARKS

Examiner has required restriction under 35 U.S.C. §121, finding two distinct inventions, namely Group I, "Claims 1-17, drawn to a payroll processing system, classified in class 705, subclass 35," and Group II, "Claims 18-25, drawn to software application, classified in class 705, subclass 30." In response, Applicant elects Group I, with traverse.

Examiner states that "the process as claimed can be practiced by another materially different apparatus or by hand." Applicant respectfully asserts that the process of the present invention, that is, Applicant's Internet-based Back Office Payroll Service and Method, cannot be processed by hand, nor can it be processed without a software application supporting the transfer of information. Applicant exemplarily refers to the brief summary provided in the specification, page 6, lines 1-18, "the present invention utilizes a computer software program designed to run or operate unattended on an office computer, receiving incoming facsimile data transmissions and automatically forwarding the data to the back office service provider...intended to act as a storefront, offering payroll services by the accountant, wherein payroll data is transmitted through the accountant's computer Internet or facsimile link to the back office payroll service provider for processing, and wherein the completed or processed payroll and associated information is subsequently

transmitted through a server back to the accountant...the accounting office can selectively print and/or report to the client the appropriate payroll information, representing at all times the accountant as the true provider of the payroll product and masking the back-office payroll processor from the client," and page 7, lines 1-4, "utilizes a computer program adapted to run or operate unattended and receive payroll information for outsourcing to a payroll processing company, wherein processed payroll information is returned to the software user for selective management and distribution of same." This general description relates the interwoven nature of the process and the apparatus. The payroll processing system of Applicant's invention does not function without the software application, and the software application would have no purpose but to support the payroll processing system. It is Applicant's respectful assertion that no duplicitous search is required and that the restriction requirement is not proper.

Further, Examiner has asserted that patentably distinct species exist within the types of means claimed for data transmission, and for managing and distributing data. Applicant respectfully traverses. Examiner offers no reason for requiring the further election, except to say that no claim is generic. Further, Examiner has not provided any means of grouping or selecting claims, even for provisional election purposes. Claim #1 includes each of the broad "means of data transmission" elements, which are then further limited in depending claims. Although patentability could lie in one

particular means of data transmission, Applicant does not desire a limitation to any one particular means. Data can be transferred by a myriad of ways. Applicant has defined particular preferred modes, and has included these within dependent claims. It is with forethought that Applicant has included a broad independent claim, in order to intentionally encompass equivalent means of accomplishing the same task(s).

Applicant respectfully offers the following: whether the payroll data is initially received into the "accountant" computer system via a facsimile transmission, a digital voice transmission, an email, or some other type of global networking system transmission, the equivalent function of that particular step within Applicant's overall process and method remains the same. The choice of how the data is transmitted is relevant within the framework defined by Applicant. Outside of that framework, different forms of transmission may appear to be distinguishable for other purposes.

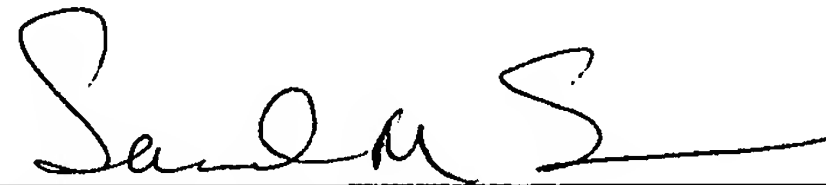
Applicant's preferred, best mode methodology includes payroll data being sent by facsimile from a client to an accountant, wherein the accountant then preferably sends the data via a peer-to-peer file transfer protocol to the third-party payroll provider, who, in turn, provides the finalized payroll product to the accountant, either by hand or for subsequent electronic printing, wherein the accountant ultimately delivers the payroll to the client. Applicant's concept is NOT intended to be limited to this best mode format. Again, for

example, the initial payroll data could be emailed. The actual specific means of data communication, within the entire framework, should not be limiting.

### CONCLUSION

The above amendments are responsive, with traverse, to Examiner's restriction requirement and thus, no new matter was added. In light of the above amendments and arguments, Applicant respectfully believes that Claims 1-17 are allowable. Should there be any questions or concerns, the Examiner is invited to telephone Applicant's undersigned attorney.

Respectfully submitted, this 2nd day of February, 2005.



---

Sandra M. Sovinski  
Reg. No. 45,781

Myers & Kaplan,  
Intellectual Property Law, L.L.C.  
1899 Powers Ferry Road  
Suite 310  
Atlanta, GA  
(770) 541-7444  
(770) 541-7448 facsimile  
ssovinski@mkiplaw.com -- Email  
Attorney Docket Number: 21690-RA